

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/919,385 Confirmation No. : 3387
First Named Inventor : Ronald F. WOESTEMEYER
Filed : July 31, 2001
TC/A.U. : 3695
Examiner : Ojo O. Oyebisi
Docket No. : 106109.62446US
Title : System and Method for Analyzing Transactions in an
Electronic Exchange

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Appellants request review of the final rejection set forth in the Office Action dated January 6, 2010. No amendments are being filed with this Request, and this Request is being filed with a Notice of Appeal.

Claims 1-3, 5-10, 12-23, 25-35, and 37-40 are all the claims currently pending in the present application. Claims 4, 11, 24, and 36 have been canceled. Claims 8-10, 12-21, and 38 have been withdrawn.

I. Walter and Anderson Fail to Teach or Suggest Categorizing Products and Services from the Aggregate Transaction Data into a Plurality of Standard Pricing Groups According to Configuration Information

Independent claim 1 recites a market analysis system comprising a software program to, *inter alia*:

categorize products and services from the aggregate transaction data into a plurality of standard pricing groups according to configuration information received at the market analysis system from one or more suppliers that participate in the electronic exchange, wherein the configuration information includes standard pricing group attributes, wherein the

standard pricing group attributes include a value corresponding to a delivery term, a locale, a product, a service, a customer type, a time scale, or a sales channel.

Instead of categorizing products and services from aggregate transaction data into a plurality of standard pricing groups, Walter categorizes customers into temporal segments, and Anderson analyzes consumer retail transactions in terms of product clusters to determine relationships between consumers and products.

A. Walter Categorizes Customers, Not Products and Services

Walter discloses a system and method for temporally analyzing customer transactions and interactions in order to classify customers into clusters.¹ In particular, Walter captures information about customer interactions and transactions over time, *classifies customers* into one or more clusters based on their time-based interactions and transactions, and uses this classification to perform selected target marketing or cross-selling.²

FIG. 3 of Walter shows a flowchart of the steps in the method. Sources of information about customer interactions and transactions are temporally tagged in step 310.³ The temporally tagged information is used to create a temporal profile for each customer in step 320.⁴ An example of a customer's temporal profile is shown in FIG. 5. In step 324, temporal profiles of multiple customers are weighted and matched to find other customers who have similar temporal

¹ Col. 1, lines 34-37.

² Col. 1, lines 39-43.

³ Col. 4, lines 33-34.

browsing and buying behaviors.⁵ For example, based on the temporally tagged information about a customer (Willard) in Table 1, Willard is considered to fit into several profiles or clusters (new fathers and people who are sports-oriented).⁶ A matching/clustering algorithm is then performed to determine if there are other customers with similar combinations of browsing and buying behaviors.⁷ Such groups of customers with like behaviors are called temporal segments (for example, sports-oriented new fathers).⁸ An example of this profile-based segmentation is shown in FIG. 6, in which different customers are given scores that indicate how similar their behavior is to Willard's behavior in the relevant categories (sports enthusiast and new father).⁹

In rejecting claim 1, the Examiner maintains that Walter discloses the recited claim feature at col. 6, lines 11-45 and col. 5, lines 1-40. These portions of Walter merely disclose customer categorization and not categorization of products and services into standard pricing groups. Nevertheless, the Examiner contends that Walter's customer segmentation is a "market segmentation ... akin to the applicant's claimed limitation of categorization of products and services from the aggregate transaction data into a plurality of standard pricing groups."¹⁰ Even assuming *arguendo* that Walter's customer segmentation could be interpreted as a market segmentation, it still involves categorizing customers

⁴ Col. 4, lines 34-36 and col. 1, lines 25-30.

⁵ Col. 6, lines 12-14.

⁶ Col. 6, lines 14-21.

⁷ Col. 6, lines 23-27.

⁸ Col. 6, lines 27-32.

⁹ Col. 6, lines 33-46.

¹⁰ Final Office Action, January 6, 2010, page 8.

into segments, and not categorizing products and services into standard pricing groups. Indeed, Walter does not even mention standard pricing groups. Instead of categorizing products and services into a plurality of standard pricing groups, as recited in claim 1, Walter categorizes customers into temporal segments. Each temporal segment includes several categories that characterize the interests of customers, such as sports enthusiasts and new fathers. This does not involve the categorization of products or services, and does not involve standard pricing groups.

B. Anderson's Product Clustering Does Not Involve Standard Pricing Groups

Further, the Appellants respectfully submit that Anderson fails to remedy the deficient teachings of Walter. Anderson gathers product information that uniquely identifies a product by type and manufacturer, groups that product information into product clusters, and analyzes consumer retail transactions in terms of the product clusters to determine relationships between the consumers and the products.¹¹ However, Anderson does not “categorize products and services from the aggregate transaction data into a plurality of standard pricing groups according to configuration information received at the market analysis system from one or more suppliers that participate in the electronic exchange,” as recited in claim 1. In fact, the Examiner does not cite Anderson as allegedly disclosing the recited claim feature. Instead, as discussed above, the Examiner relies upon Walter as allegedly disclosing the recited claim feature.

¹¹ Col. 2, lines 60-65.

II. Conclusion

Because Walter discloses categorizing customers into temporal segments, and Anderson discloses analyzing consumer retail transactions in terms of product clusters to determine relationships between consumers and products, the alleged combination of Walter and Anderson does not disclose or suggest categorizing products and services from aggregate transaction data into a plurality of standard pricing groups. As such, the alleged combination of Walter and Anderson cannot render claim 1 obvious. In view of the foregoing, the Appellants respectfully submit the Examiner has failed to establish a *prima facie* case of unpatentability. Thus, claims 1-3, 5-7, 22, 23, 25-35, 37, and 39-40 are patentable over Walter and Anderson. The Appellants respectfully request reversal of the outstanding rejections.

Respectfully submitted,

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